

NEW SUBSECTION. 13A. "Wild mammal" means a mammal and family of mammal listed in sections 109.40 and 109.41.

Sec. 6. Section 109.42, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

109.42 **NONGAME PROTECTED.** Protected nongame species include wild fish, birds, reptiles, and amphibians, and a product, egg, or offspring of them, and a dead body or part of a body. However, nongame does not include game, fish, fur-bearing animals, turtles, or frogs, as defined in this chapter. The commission shall designate by rule those species of nongame which by their abundance or habits are declared a nuisance, and these species shall not be protected.

Approved June 2, 1983

CHAPTER 169
REGULATION OF SECURITIES
H.F. 514

AN ACT amending the Iowa Uniform Securities Act, and providing a civil penalty.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 19A.3, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 22. The deputy administrator in charge of securities within the department of insurance as designated pursuant to section 502.601.

Sec. 2. Section 502.102, subsection 4, paragraph d, subparagraph (2), Code 1983, is amended to read as follows:

(2) During any period of twelve consecutive months does not ~~direct more than fifteen offers to sell or buy into effect transactions in this state in any manner to with more than three persons other than those specified in subparagraph (1) of this paragraph, whether or not the offeror or any of the offerees is then present in this state;~~

Sec. 3. Section 502.202, subsection 11, Code 1983, is amended to read as follows:

11. ~~Any A~~ security issued in connection with an employee stock purchase, option, savings, pension, profit sharing or similar benefit plan, provided, in the case of plans which are not qualified under section 401 of the Internal Revenue Code of 1954 and which provide for contribution by employees, the administrator is notified in writing ~~thirty fifteen~~ days before the inception of the plan of the terms of the plan.

Sec. 4. Section 502.203, subsection 8, Code 1983, is amended to read as follows:

8. ~~Any An~~ offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in a fiduciary capacity. However, the administrator, by rule or order, may grant this exemption to a person or class of persons based upon the factors of financial sophistication, net worth, and the amount of assets under investment.

Sec. 5. Section 502.203, subsection 9, Code 1983, is amended by striking the subsection and inserting in lieu thereof the following:

9. The sale, as part of a single issue, of securities by the issuer of the securities if all of the following conditions are satisfied:

a. Within any period of twelve consecutive months, sales are made to less than thirty-six purchasers in this state, exclusive of purchases by bona fide institutional investors for their own account for investment.

b. Unless permitted by the administrator by rule, or by order issued upon written application showing good cause for the allowance of the sale, the issue is not an issue of:

(1) Fractional undivided interests in oil, gas, or other mineral leases, rights, or royalties.

(2) Interests in a partnership organized under the laws of or having its principal place of business in a foreign jurisdiction.

c. The issuer reasonably believes that all the buyers in this state are purchasing for investment.

d. Commission or other remuneration is not paid or given, directly or indirectly, for the sale, except as may be permitted by the administrator by rule, or by order issued upon written application showing good cause for allowance of commission or other remuneration.

e. The issuer or a person acting on behalf of the issuer does not offer or sell the securities by any form of general solicitation or advertising.

Sec. 6. Section 502.203, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 16. The administrator may create by rule a limited offering transactional exemption which furthers the objectives of compatibility with federal exemptions and uniformity among the states and provides criteria to determine and assure the suitability of investors.

Sec. 7. Section 502.203, subsection 12, Code 1983, is amended to read as follows:

12. ~~Any~~ An offer, but not a sale, of a security for which a registration statement has been filed under this chapter or a written notice has been filed pursuant to section 502.202, subsection 1, 9, or 11 if no stop order or suspension or denial order is in effect and no proceeding is pending under this chapter.

Sec. 8. Section 502.209, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 6. a. Subsection 1, paragraphs e and h, shall not apply to the registration of an issue offered by a person whose principal place of business is in this state. However, the provisions of subsection 1, paragraph e relating to fraud shall apply to such persons.

b. The administrator may adopt rules to:

(1) Implement paragraph a and delineate the format and process to be used.

(2) Provide procedural safeguards, if the administrator finds these safeguards are necessary.

Sec. 9. Section 502.301, subsection 3, Code 1983, is amended to read as follows:

3. Every registration shall expire on the last day of ~~September~~ December in each year.

Sec. 10. Section 502.302, subsection 1, Code 1983, is amended to read as follows:

1. A broker-dealer or agent may obtain an initial or renewal license by filing with the administrator, or an organization which the administrator by rule designates, an application together with a consent to service of process pursuant to section 502.609 and the appropriate filing fee. The application shall contain ~~whatever~~ the information the administrator ~~by rule~~ requires by rule concerning the applicant's form and place of organization, proposed method of doing business and financial condition, the qualifications and experience of the applicant, including, in the case of a broker-dealer, the qualifications and experience of any partner, officer,

director or controlling person, any injunction or administrative order or conviction of a misdemeanor involving securities and any conviction of a felony, and any other matters which the administrator determines are relevant to the application. If no denial order is in effect and no proceeding is pending under section 502.304, registration becomes effective at noon of the thirtieth day after an application is filed. The administrator may by rule or order specify an earlier effective date and may by order defer the effective date until noon of the thirtieth day after the filing of ~~any an~~ amendment. Registration of a broker-dealer automatically constitutes registration of ~~any an~~ agent named in the application or amendments ~~thereto~~ to the application who is a partner, officer or director, or who is a person occupying a similar status or performing similar functions.

Sec. 11. Section 502.303, subsection 4, Code 1983, is amended to read as follows:

4. The administrator shall make periodic examinations, within or without this state, of the business and records of each registered broker-dealer, at ~~such~~ the times and in ~~such~~ the scope as the administrator determines. The examinations may be made without prior notice to the broker-dealer. The administrator may copy all records the administrator feels are necessary to conduct the examination. The expense reasonably attributable to ~~any such an~~ examination shall be paid by the broker-dealer whose business is examined, but the expense so payable shall not exceed an amount which the administrator by rule prescribes. For the purpose of avoiding unnecessary duplication of examinations, the administrator may co-operate with securities administrators of other states, the securities and exchange commission, and any national securities exchange or national securities association registered under the Securities Exchange Act of 1934. The administrator shall not make public the information obtained in the course of examinations, except when ~~any a~~ duty under this chapter requires the administrator to take action regarding ~~any a~~ broker-dealer or to make the information available to one of the agencies specified ~~herein~~ in this section, or except when the administrator is called as a witness in any a criminal or civil proceeding.

Sec. 12. Section 502.304, subsection 1, unnumbered paragraph 1, Code 1983, is amended to read as follows:

The administrator may by order deny, suspend or revoke ~~any a~~ registration or may censure ~~any an~~ applicant or registrant or may impose a civil penalty, if the order is found to be in the public interest and it is found that the applicant or registrant or, in the case of a broker-dealer, ~~any a~~ partner, ~~an~~ officer, or a director, ~~any a~~ person occupying a similar status or performing similar functions, or ~~any a~~ person directly or indirectly controlling the broker-dealer:

Sec. 13. Section 502.304, Code 1983, is amended by adding the following new subsection:

NEW SUBSECTION. 7. A civil penalty levied under subsection 1 shall not exceed two hundred fifty dollars per violation per person nor ten thousand dollars in a single proceeding against any one person. All administrative fines received shall be deposited in the state general fund.

Sec. 14. Section 502.404, Code 1983, is amended to read as follows:

502.404 PROHIBITED TRANSACTIONS OF BROKER-DEALERS AND AGENTS. No A broker-dealer or agent shall not effect any a transaction in, or induce or attempt to induce the purchase or sale of, any security in this state by means of any manipulative, deceptive or other fraudulent scheme, device, or contrivance, fictitious quotation, or in violation of this Act or any rule or order hereunder. A broker-dealer or agent shall not recommend to a customer the purchase, sale or exchange of a security without reasonable grounds to believe that the transaction or recommendation is suitable for the customer based upon reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and other relevant information known by the broker-dealer.

Sec. 15. Section 502.601, subsection 1, Code 1983, is amended to read as follows:

1. The provisions of this This chapter shall be administered by the commissioner of insurance of the state of Iowa. The administrator shall appoint a deputy administrator who shall be subject to exempt from the merit system provided for in chapter 19A. The deputy administrator shall be the principal operations officer of the securities department and shall be responsible to the administrator for the routine administration of the chapter and the management of the securities department. In the absence of the administrator, whether because of vacancy in the office, by reason of absence, physical disability or other cause, the deputy administrator shall be the acting administrator and shall, for the time being, have and exercise the authority conferred upon the administrator. The administrator may by order from time to time delegate to the deputy administrator any or all of the functions assigned to the administrator in this chapter. The administrator shall employ ~~such~~ officers, attorneys, accountants, and other employees as shall be needed for the administration of the chapter.

Sec. 16. Section 502.603, subsection 1, paragraph c, Code 1983, is amended to read as follows:

c. Publish Keep confidential the information obtained in the course of an investigation. However, if the administrator determines that it is necessary or appropriate in the public interest or for the protection of investors, the administrator may share information with other securities administrators, regulatory authorities, or governmental agencies or may publish information concerning any a violation of this chapter or any a rule or order hereunder under this chapter.

Sec. 17. Section 502.608, subsection 1, Code 1983, is amended to read as follows:

1. A document is filed when it is received by the administrator, except that documents required to be filed under sections 502.202 and 502.203 shall be deemed to be filed with the administrator:

a. On the date received by the administrator.

b. If it has not been received by the administrator prior to the date by which the document must be filed, on the date the document is mailed with the United States postal service by registered or certified mail addressed to the administrator's office in Des Moines, Iowa.

Sec. 18. An applicant for renewal registration as a broker-dealer to be effective January 1, 1984, shall pay a filing fee of two hundred fifty dollars. An applicant for renewal registration as an agent to be effective January 1, 1984, shall pay a filing fee of twenty-five dollars. Subsequent to January 1, 1984, renewal fees are as provided in section 502.302, subsection 2.

Sec. 19.

1. The legislative council shall establish a joint interim subcommittee of the committees on commerce of the senate and small business and commerce of the house to serve as an advisory committee on securities regulation.

2. The advisory committee on securities regulation shall review and study the desirability of merit review of securities and the structure, funding and staffing of the securities division of the Iowa department of insurance. The advisory committee shall hold at least one public hearing to seek public input.

3. The advisory committee shall report its findings and recommendations, including any proposed legislation, to the legislative council and the general assembly on or before January 15, 1984.

Sec. 20. Effective July 1, 1984, the new subsection added to section 502.209 by this Act is repealed and the following amendment to section 502.209, subsection 1, paragraphs e and h is enacted.

Sec. 21. Section 502.209, subsection 1, paragraphs e and h, Code 1983, are amended to read as follows:

e. The issuance or sale of the securities is ~~or would be unfair or inequitable to purchasers or~~ has worked or tended to work a fraud upon purchasers or would so operate;

h. The financial condition of the issuer affects or would affect the soundness of the securities; ~~or, except that applications for registration of securities by companies which are in the development stage shall not be denied based solely upon the financial condition of the company.~~ For purposes of this rule, a "development stage company" is defined as a company which has been in existence for five years or less.

Approved June 2, 1983

CHAPTER 170

COMPARABLE WORTH EMPLOYMENT POLICY AND STUDY

H.F. 313

AN ACT establishing as the policy of the state that employees shall be paid at a rate based on comparable worth, providing for a study, and delaying the implementation of the policy.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. 79.17 COMPENSATION BASED ON COMPARABLE WORTH. It is the policy of this state that a state department, board, commission, or agency shall not discriminate in compensation for work of comparable worth between jobs held predominantly by women and jobs held predominantly by men. "Comparable worth" means the value of work as measured by the composite of the skill, effort, responsibility, and working conditions normally required in the performance of work.

Sec. 2. A study shall be conducted for the purpose of establishing an evaluation of jobs under the merit employment system on the basis of their comparable worth, with particular attention given to jobs predominantly held by women and jobs predominantly held by men. As used in this section, "comparable worth" means the value of work as measured by the composite of skill, effort, responsibility, and working conditions normally required in the performance of work.

The study shall be conducted within the limits of available funds and personnel and shall be supervised by the Iowa merit employment department. State agencies charged with the responsibility of administering various payroll systems shall cooperate with the Iowa merit employment department in helping to carry out the study. Within the limits of available funds, a contract with an independent, private firm having expertise in personnel administration shall be negotiated to conduct the study.

The legislative council shall appoint six persons to serve on a steering committee for the study, and the governor shall appoint a seventh member to the steering committee. The director of the Iowa merit employment department, the director of the Iowa civil rights commission, and the director of the Iowa commission on the status of women or their designees shall serve as advisors to the steering committee. The steering committee shall be responsible for